

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,  Plaintiff,  v.  ROLEX WATCH,  Defendant.	Misc. Case: 4:22-mc-179  MEMORANDUM OF LAW IN SUPPORT OF UNITED STATES' MOTION TO EXTEND TIME TO FILE A CIVIL FORFEITURE COMPLAINT
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Comes now plaintiff, the United States of America ("the Government"), and files the following memorandum of law in support of its motion to extend time to file a civil forfeiture complaint alleging forfeiture as to the above-entitled property.

1. There is a criminal case involving the forfeiture of this Rolex watch. *United States of America v. Antyon Hamilton Hogan, Jr.*, CR 22-40029-01 (D.S.D.).

2. Pursuant to an arrest warrant, executed in Sioux Falls, South Dakota on June 19, 2022, at a specified address, the DHS, Homeland Security Investigations (HSI), seized the defendant property, Rolex watch. Bengford Declaration ¶ 3. On July 21, 2022, the agency notified Hamilton of his right to file a claim for the seized defendant property. See Bengford Declaration, Exhibit 1. On August 22, 2022, a claim form from Hamilton was received for the above-listed defendant property. *Id.*

3. The Government has opened a file in relation to the above-entitled referral for judicial forfeiture based upon Hamilton's claim and seeks additional time, 60 days, to try and resolve the administrative claim and determine whether to proceed with a civil forfeiture case.

### **LEGAL ANALYSIS**

Title 18, section 983(a)(3)(A)-(C) states:

(A) Not later than 90 days after a claim has been filed, the Government shall file a complaint for forfeiture in the manner set forth in the Supplemental Rules for Certain Admiralty and Maritime Claims or return the property pending the filing of a complaint, except that a court in the district in which the complaint will be filed may extend the period for filing a complaint for good cause shown or upon agreement of the parties.

(B) If the Government does not –

- (i) file a complaint for forfeiture or return the property, in accordance with subparagraph (A); or
- (ii) before the time for filing a complaint has expired –

- (I) obtain a criminal indictment containing an allegation that the property is subject to forfeiture; and
- (II) take the steps necessary to preserve its right to maintain custody of the property as provided in the applicable criminal forfeiture statute, the Government shall promptly release the property pursuant to regulations promulgated by the Attorney General, and may not take any further action to effect the civil forfeiture of such property in connection with the underlying offense.

(C) In lieu of, or in addition to, filing a civil forfeiture complaint, the Government may include a forfeiture allegation in a criminal indictment. If criminal forfeiture is the only forfeiture proceeding commenced by the Government, the Government's right to continued possession of the property shall be governed by the applicable criminal forfeiture statute.

The agency has calculated the deadline to file a civil forfeiture complaint for the defendant property as November 20, 2022, which is 90 days from the date Hamilton's claim was received, August 22, 2022. Under 18 U.S.C. § 983(a)(3)(A)-(C), unless the time is extended by the Court for good cause, the United States is required to file a complaint for forfeiture against the property or to obtain an indictment alleging that the property is subject to forfeiture.

Additional time is needed to try and obtain a waiver of the administrative forfeiture of the Rolex watch given the consent in the plea agreement. If a civil forfeiture might be needed, the undersigned needs additional time to evaluate if the United States should proceed with a civil forfeiture complaint and if so, additional time is needed to prepare and file the complaint. The United States asserts that there is good cause to extend the deadline.

The United States seeks an extension of 60 days to file a civil forfeiture complaint as to the defendant property. If the time is not extended and the United States is required to return the property to the claimant, there is no assurance that the property will be available for forfeiture.

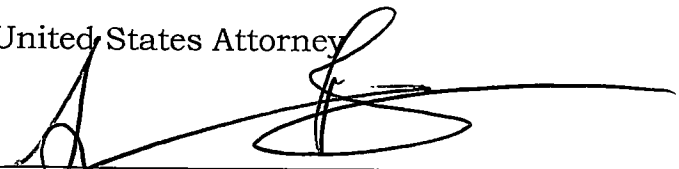
### **CONCLUSION**

For the foregoing good cause, the United States respectfully requests that the Court extend the period in which the United States is required to file a civil forfeiture complaint against the property for 60 days, until January 19, 2023.

Date: November 18, 2022.

ALISON J. RAMSDELL

United States Attorney



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